

BOOK PAGE
94 07-8 0511

Recording requested by:
Sacramento Cable
4350 Pell Drive
Sacramento, California 95838

When recorded, mail certified copy to:
Department of Toxic Substances Control
Region 1
10151 Croydon Way, Suite 3
Sacramento, California 95827

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COVENANT AND AGREEMENT
TO RESTRICT USE OF PROPERTY

1 This Covenant and Agreement ("Covenant") is made on the
2 1st day of July 199~~7~~⁴, by
3 Sacramento Cable ("Covenantor"), who is the owner of record of
4 certain real property situated in the City of Sacramento, County
5 of Sacramento, State of California, described in Exhibit "A"
6 (legal description) attached hereto and incorporated herein by
7 this reference ("the Property") and by the California Department
8 of Toxic Substances Control ("the Department"), with reference to
9 the following facts:
10 A. This Property, as described in Exhibit "A" is the real
11 property known as Assessor Parcel Number 013-0162-014,
12 located at 2175 Perkins Way, Sacramento, County of
13 Sacramento, California, which has been the site of a
14 hazardous substance release.
15 B. The Property is located in a residential area approximately
16 0.5 miles north of Hughes Stadium. Residences surround the

1 property to the north, south, and west. The Union Pacific
2 Railroad yard is to the east. The Property formerly
3 sustained a paint shed, a neon sign storage area, and a
4 pottery kiln. These former uses of the Property are
5 possible sources of the lead and arsenic contamination of
6 the soil. Contaminated soil remains underneath the
7 property. The surface soil contamination was paved to
8 eliminate potential exposure routes.

9 C. Covenantor desires and intends that in order to protect the
10 present or future public health and safety and the
11 environment, the Property shall be used in such a manner as
12 to avoid potential harm to persons or property which may
13 result from contaminated soil left in place underneath the
14 Property as described in Exhibit "A".

15 D. The Covenantor further desires and intends that the Covenant
16 terms are for the mutual benefit of the Property which shall
17 run with the land, shall inure to the benefit of the
18 Property, and shall apply to and bind the respective
19 successors in interest thereof.

20 ARTICLE I

21 GENERAL PROVISIONS

22 1.01 Provisions To Run With The Land. This Covenant sets forth
23 protective provisions, covenants, restrictions, and conditions,
24 (collectively referred to as "Restrictions"), upon and subject to
25 which the Property and every portion thereof shall be improved,

Sacramento Cable
Covenant and Agreement
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1 held, used, occupied, leased, sold, hypothecated, encumbered,
2 and/or conveyed. Each and all of the Restrictions shall run with
3 the land, and pass with each and every portion of the Property,
4 and shall apply to and bind the respective successors in interest
5 thereof. Each and all of the Restrictions are imposed upon the
6 entire Property as mutual equitable servitudes in favor of the
7 Property and every portion thereof, unless expressly stated as
8 applicable to a specific portion of the Property. Each and all
9 of the Restrictions are imposed pursuant to Sections 25355.5 and
10 25356.1 of the California Health and Safety Code and run with the
11 land pursuant to Section 25355.5. Each and all of the
12 Restrictions are enforceable by the Department of Toxic
13 Substances Control, and its successor agencies, if any.

14 1.02 Concurrence Of Owners Presumed. All purchasers, lessees, or
15 possessors of any portion of the Property shall be deemed by
16 their purchase, leasing, or possession of such Property, to be in
17 accord with the foregoing and to agree for and among themselves,
18 their heirs, successors and assignees, and the agents, employees,
19 and lessees of such owners, heirs, successors, and assignees,
20 that the Restrictions as herein established must be adhered to
21 for the benefit of future Owners and Occupants and that their
22 interest in the Property will be subject to the Restrictions
23 contained herein.

24 1.03 Incorporation Into Deeds And Leases. Covenantor desires and
25 covenants that the Restrictions set out herein shall be

1 incorporated by reference in each and all deeds and leases of any
2 portion of the Property.

3 ARTICLE II

4 DEFINITIONS

5 2.01 Department. "Department" shall mean the California State
6 Department of Toxic Substances Control and shall include its
7 successor agencies, if any.

8 2.02 Improvements. "Improvements" shall mean all buildings,
9 structures, roads, driveways, regradings, and paved parking
10 areas, constructed or placed upon any portion of the Property.

11 2.03 Occupants. "Occupants" shall mean those persons entitled by
12 ownership, leasehold, or other legal relationship to the
13 exclusive right to occupy any portion of the Property.

14 2.04 Owner. "Owner" shall mean the Covenantor or its successors
15 in interest, including heirs, and assigns, who hold title to all
16 or any portion of the Property.

17 2.05 Final Cap. "Final Cap" shall mean the combination of
18 materials that covers the site to reduce infiltration of surface
19 water and limit human exposure to contaminated soil.

20 ARTICLE III

21 DEVELOPMENT, USE, AND CONVEYANCE OF THE PROPERTY

22 3.01 Restrictions On Use. Covenantor promises to restrict the
23 use of the Property as follows: The property at 2175 Perkins Way
24 shall not be used for residences, hospitals, schools for persons
25 under age 21, day-care centers or any permanently occupied human
26 habitation, including hotels or motels which are used as a

1 permanent residence by employees, without the prior written
2 approval of the Department.

3 3.02 Conveyance of Property. The Covenantor, Owner or Owners
4 shall provide a thirty (30) day advance notice to the Department
5 of any sale, lease, or other conveyance of the Property or an
6 interest in the Property, by Covenantor, to a third party. The
7 Department shall not, by reason of the Covenant, have authority
8 to approve, disapprove, or otherwise affect any sale, lease, or
9 other conveyance of the Property except as otherwise provided by
10 law, by administrative order.

11 3.03 Enforcement. Failure of the Covenantor, Owner or Occupant
12 to comply with any of the requirements, as set forth in Section
13 3.01, shall be grounds for the Department, by reason of the
14 Covenant, to require that the Covenantor, Owner or Occupant
15 modify or remove any improvements constructed in violation of
16 that section. Violation of the Covenant shall be grounds for the
17 Department to file civil and criminal actions against the
18 Covenantor, Owner, or Occupant as provided by law.

19 3.04 Notice In Agreements. All Owners and Occupants shall
20 execute a written instrument which shall accompany all purchase,
21 lease, sublease, or rental agreements relating to the Property.
22 The instrument shall contain the following statement:

23 "The land described herein contains hazardous
24 substances. Such condition renders the land and the
25 owner, lessee, or other possessor of the land subject
26 to requirements, restrictions, provisions, and

1 liabilities contained in Chapters 6.5 and 6.8 of
2 Division 20 of the California Health and Safety Code.
3 This statement is not a declaration that a hazard
4 exists."

5 ARTICLE IV

6 VARIANCE AND TERMINATION

7 4.01 Variance. Any Owner or, with the Owner's consent, any
8 Occupant of the Property or any portion thereof may apply to the
9 Department for a written variance from the provisions of this
10 Covenant. Such application shall be made in accordance with
11 Section 25233 of the California Health and Safety Code.

12 4.02 Termination. Any Owner or, with the Owner's consent, an
13 Occupant of the Property or any portion thereof may apply to the
14 Department for a termination of the Restrictions as they apply to
15 all or any portion of the Property. Such application shall be
16 made in accordance with Section 25234 of the California Health
17 and Safety Code.

18 4.03 Term. Unless terminated in accordance with Section 4.02
19 above, by law or otherwise, this Covenant shall continue
20 in effect in perpetuity.

21 ARTICLE V

22 MISCELLANEOUS

23 5.01 No Dedication Intended. Nothing set forth herein shall be
24 construed to be a gift or dedication, or offer of a gift or
25 dedication, of the Property to the general public or for any

1 purposes whatsoever.

2 5.02 Notices. Whenever any person shall desire to give or serve
3 any notice, demand, or other communication with respect to this
4 Covenant, each such notice, demand, or other communication shall
5 be in writing and shall be deemed effective [1] when delivered,
6 if personally delivered to the person being served or to an
7 officer of a corporate party being served or official of a
8 government agency being served, or [2] three (3) business days
9 after deposit in the mail if mailed by United States mail,
10 postage paid certified, return receipt requested:

11 To: Sacramento Cable

12 c/o Mr. Kevin Jones

13 4350 Pell Drive

14 Sacramento, California 95838

15 Copy to: California Environmental Protection Agency -

16 Department of Toxic Substances Control

17 Region 1

18 Chief, Site Mitigation Branch

19 10151 Croydon Way, Suite No. 3

20 Sacramento, California 95827

21 5.03 Partial Invalidity. If any portion of the Restrictions set
22 forth herein or terms are determined to be invalid for any
23 reason, the remaining portion shall remain in full force and
24 effect as if such portion had not been included herein.

25 5.04 Article Headings. Headings at the beginning of each

1 numbered article of this Covenant are solely for the convenience
2 of the parties and are not a part of the Covenant.

3 5.05 Recordation. This instrument shall be executed by the
4 Covenantor, and by the Director, California Department of Toxic
5 Substances Control. This instrument shall be recorded by the
6 Covenantor in the County of Sacramento within ten (10) days of
7 the date of execution.

8 5.06 References. All references to Code section include
9 successor provisions.

10 IN WITNESS WHEREOF, the parties execute this Covenant as of the
11 date set forth below.

12 OWNER: Sacramento Cable

13
14 BY: KR

15 TITLE: Contractor

16 DATE: 7-1-94

17 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY -
18 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

19 BY: James F. Smith

20 TITLE: Acting Branch Chief

21 DATE: 7-1-94

EXHIBIT "A"

The parcel of land situated in the City of Sacramento, County of
Sacramento, State of California, described as follows: Lot 6809
of Hillcrest Park Subdivision.

STATE OF CALIFORNIA

COUNTY OF

SACRAMENTO

SS

94 JUL -8 AM 9:39

On this JULY day of 1994

in the year 1994

before me

PAT BROTHERS

, personally appeared

COUNTY CLERK - RECORDER

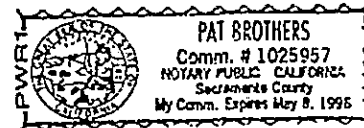
KEVIN R. JONES

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Pat Brothers



ALL-PURPOSE ACKNOWLEDGMENT

State of CALIFORNIA

County of SACRAMENTO

On 7-1-94 before me,

DATE

DAVID HURLEY

NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared

JAMES T. JASUOLO

NAME(S) OF SIGNER(S)

☐ personally known to me - OR - ☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.



David Hurley
SIGNATURE OF NOTARY

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL(S)
- ☐ CORPORATE OFFICER(S) _____ TITLE(S) _____
- ☐ PARTNER(S)
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ SUBSCRIBING WITNESS
- ☐ GUARDIAN/CONSERVATOR
- ☒ OTHER: ACTING RIAKCH CHIEF

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

State of California

Dept Toxic Substances Control

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent attachment of this certificate to unauthorized documents.

THIS CERTIFICATE
MUST BE ATTACHED
TO THE DOCUMENT
DESCRIBED AT RIGHT:

Title or Type of Document Deed Restriction

Number of Pages 10

Date of Document 7/1/94

Signor(s) Other Than Named Above Kevin R. Jones